

REMARKS

Claims 1-20 are currently pending in this application, claims 1, 14 and 18 being the independent claims. By this amendment, Claims 1, 14 and 18 have been amended. In view of the amendments above and the remarks to follow, reconsideration and allowance of this application are respectfully requested.

In the Office Action dated March 29, 2004, claim 14 was objected to because of a minor informality. Claim 14 has been amended in the manner suggested by the Examiner, thereby obviating the objection.

Also in the Office Action, claims 1-8, 11, 12, and 14-20 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,182,898 to Schmidt et al. (the '898 patent). Additionally, claim 9 was rejected under 35 U.S.C. 103(a) as being unpatentable over the '898 patent in view of U.S. Patent No. 6,327,103 to Belliveau et al. (the '103 patent); claim 10 was rejected under 35 U.S.C. 103(a) as being unpatentable over the '898 patent in view of U.S. Patent Publication No. 2002/0011520; and claim 13 was rejected under 35 U.S.C. 103(a) as being unpatentable over the '898 patent in view of U.S. Patent No. 5,308,960 to Smith et al. (the '960 patent).

Regarding the claim rejections under 35 U.S.C. 102(b), there are at least two fundamental distinctions between the '898 patent and the present invention. First, the '898 patent is directed to an automatic bar code symbol reading system which utilizes a laser beam for scanning the bar codes and acquiring data. Second, in order to pivot the optics of the scanner in the '898 patent,

the entire scanner is pivoted relative to a scanner support stand.

In contrast to the '898 patent, first, the optical code reader of the present invention utilizes image-based technology rather than laser technology for acquiring data. The laser which is provided with the optical code reader of the present invention is simply used as a pointer for lining up the optical code reader on the desired target. In the present invention, the collection of a signal from the scanned object is independent of the laser. Thus, the two devices utilize different technologies for acquiring data.

Second, in contrast to pivoting the entire scanner as disclosed in the '898 patent, the imaging optics in the present invention are pivoted relative to the sensor device only, rather than the entire chassis.

In view of the above distinctions between the '898 patent and the present invention, and further in view of the amendments to independent claims 1, 14 and 18, it is respectfully submitted that the '898 patent does not and cannot disclose each of the elements of amended independent claims 1, 14 and 18. More specifically, the independent claims 1, 14 and 18 were amended to more clearly define the pivotal movement of the optics of the present invention.

As admitted by the Examiner in the Office Action, the barcode reading device of the '898 patent "... is operably associated with a base unit 3 having a scanner support stand 4 pivotally connected thereto." Therefore, in the '898 patent, when the target is moved, the entire barcode reader is pivotally rotated about pivot pins which are positioned in the base portion.

In the present invention, as recited in amended independent claims 1, 14 and 18, the imaging optics are pivoted relative to the chassis and assembly for receiving and processing

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image data.

It is respectfully submitted that claims 2-13, 15-17 and 19-20 which directly or indirectly depend from one of independent claims 1, 14 and 18, are patentable for at least the reasons that claims 1, 14 and 18 are patentable.

It is respectfully submitted that none of the references of record disclose or suggest the present invention as claimed in the claims as amended, considered individually or in combination, with themselves, considered in whole or in part. Accordingly, withdrawal of the rejections is respectfully requested.

Accordingly, early and favorable reconsideration of this application is respectfully requested. Should the Examiner feel that a telephone or personal interview may facilitate resolution of any remaining matters, he is respectfully requested to contact Applicant's attorney at the number indicated below.

Respectfully submitted,



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